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EXAMINER

STANLEY, JANE L

ART UNIT	PAPER NUMBER
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1796

NOTIFICATION DATE	DELIVERY MODE
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ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/591,375	Applicant(s) BEENEN ET AL.	
	Examiner JANE L. STANLEY	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☒ Claim(s) 3-4 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060831, 20070719</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 3 and 4 are objected to because of the following informalities: the claims recite "The composition" and should instead recite "The cleaning composition".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-7 and 10-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the claim is directed to a method of cleaning dishware however the only step is to adding a manganese or manganese compound into cleaning compositions which is a step directed to making a cleaning composition and not an active positive step to a method of cleaning. It is unclear what method/process applicant is intending to encompass. Furthermore, claim 1 appears to recite the alternative limitation of "surrounded by at least one protein fragment" twice (see lines 3-5) and it is unclear how the second recitation is different from the first. This includes **claims 10-14** as they depend from **claim 1**.

Regarding claim 2, the claim is rendered unclear as it cannot be determined as written if both the "a manganese" and the "a manganese compound" are bound to,

Art Unit: 1796

associated with, etc. the at least one protein type, or if only the "a manganese compound" is so bound/associated/etc. For the purpose of this Office action, the Examiner has interpreted the claim to mean the latter. Furthermore, claim 2 appears to recite the alternative limitation of "surrounded by at least one protein fragment or peptide" twice (see lines 2-4) and it is unclear how the second recitation is different from the first. This includes **claims 3-7** as they depend from **claim 2**.

Regarding claim 4, the claim recites "the manganese" and it is not clear as to which manganese compound claim 4 is referring i.e. the 'a manganese' or the 'a manganese compound'. For the purpose of this Office action, the Examiner has interpreted the claim to mean the latter.

Regarding claim 6 and 13, the claims recite the limitation "the tabletted machine dishwashing cleaning composition". There is insufficient antecedent basis for this limitation in these claims.

Regarding claims 7 and 14, the claims both recite the limitation "the granulated composition". There is insufficient antecedent basis for this limitation in these claims. Furthermore, the claims recite the manganese compound and the bleaching agent have no direct contact. It is unclear what is meant by "have no direct contact" in the context of a granulated composition. The claims both recite the limitation "a bleaching agent" and there is insufficient antecedent basis for this limitation in these claims.

Regarding claim 11, the claim recites "the manganese" and it is not clear as to which manganese compound claim 11 is referring i.e. the 'manganese' or the 'a

Art Unit: 1796

manganese compound'. For the purpose of this Office action, the Examiner has interpreted the claim to mean the latter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 2-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Cannell et al. (US 5,681,554).

Regarding claims 2 and 4, Cannell et al. teaches hair treatment compositions comprising hydrolyzed protein and divalent cationic compounds (abstract; col 3 ln 34-67) wherein the treatment compositions include shampoos (instant cleaning composition) and the divalent cationic compounds are divalent mineral cations including manganese (col 6 ln 41-49) (instant manganese proteinate). Cannell et al. further teaches the compositions including peptides (col 6 ln 50-67). Cannell et al. also teaches the divalent cationic compounds aid in bridging the hydrolyzed protein to the hair (col 7 ln 3-10).

Regarding claim 3, while Cannell et al. does not specifically teach the hydrolyzed protein to be in the form of a random coil, as the hydrolyzed protein disclosed by Cannell et al. is the instant protein cluster, protein or protein fragment it is

Art Unit: 1796

inherent that the hydrolyzed protein of Cannell et al. would have this property, absent evidence to the contrary.

Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Cannell et al. (US 5,681,554).

Cannell et al. teaches hair treatment compositions comprising hydrolyzed protein and divalent cationic compounds (abstract; col 3 ln 34-67) wherein the treatment compositions include shampoos (instant cleaning composition) and the divalent cationic compounds are divalent mineral cations including manganese (col 6 ln 41-49) (instant manganese proteinate). Cannell et al. further teaches the compositions including peptides (col 6 ln 50-67). Cannell et al. also teaches the divalent cationic compounds aid in bridging the hydrolyzed protein to the hair (col 7 ln 3-10). Cannell et al. further teaches use of the composition results in superior protection (abstract; col 8 ln 19-36).

Cannell et al. does not teach increasing bleaching performance however, as the method disclosed by Cannell et al. comprising compositions comprising hydrolyzed protein and divalent cationic compounds is the claimed method of adding manganese protienate to a cleaning composition, it is inherent that the method of Cannell et al. would have this property i.e. increased bleaching performance, absent evidence to the contrary.

Claims 2-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Oakes (US 4,539,132).

Regarding claims 2 and 5, Oakes teaches bleaching and cleaning compositions comprising a proteolytic enzyme and manganese (II) metal (instant a manganese) and a peroxide bleach (abstract) and the compositions are in powdered or granular form (col 5 ln 51-56).

Oakes does not specifically teach the bleaching and cleaning compositions to be machine dishwashing compositions however, the recitation that the basic formulation containing said manganese is to be used as a machine dishwashing composition does not confer patentability to the claims since the recitation of an intended use does not impart patentability to otherwise old compounds or compositions (*In re Tuominen*, 671 F.2d 1359, 213 USPQ 89 (CCPA 1982); *In re Schreiber*, 44 USPQ 2d 1429, (Fed. Cir. 1997)).

Regarding claims 3-4, as the claimed limitations of instant claims 3-4 are directed to the unselected 'a manganese compound', the limitations are deemed met by Oakes.

Also and in the alternative, while Oakes does not specifically teach the proteolytic enzyme to be in the form of a random coil, as the proteolytic enzyme disclosed by Oakes is the instant protein cluster, protein or protein fragment it is inherent that the proteolytic enzyme of Oakes would have this property, absent evidence to the contrary.

Regarding claim 6, as the claimed limitation of instant claim 6 is directed to the unselected cleaning composition in the form of a tablet, the limitations are deemed met by Oakes.

Claim 1 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardacker et al. (WO 03/104367, see Derwent abstract for English language equivalent).

Hardacker et al. teaches washing glasses in an automatic dishwasher (derwent abstract) with an automatic dishwasher rinse aid comprising surfactants and an added glass corrosion inhibitor which is a metal salt of a monomeric and/or polymeric organic acids such as amino-acids, wherein the metal salt can include manganese (derwent abstracts).

Claims 2 and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Hardacker et al. (WO 03/104367, see Derwent abstract for English language equivalent).

Hardacker et al. teaches automatic dishwasher rinse aids comprising surfactants and a glass corrosion inhibitor which is a metal salt of a monomeric and/or polymeric organic acids such as amino-acids, wherein the metal salt can include manganese (derwent abstracts).

Claims 1 and 10-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Haeggberg et al. (US 5,968,881).

Regarding claims 1 and 12, Haeggberg et al. teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds (abstract) in the form granules (col 1 ln 17-18) (instant a manganese). Haeggberg et al. further teaches methods for cleaning soiled tableware comprising contacting said tableware with the composition and a method of washing tableware in a domestic automatic dishwashing appliance (col 27 ln 39-52). Haeggberg et al. teaches adding catalyst/enzyme particles to the detergent (col 30 Examples 4-5).

As Haeggberg et al. teaches granules of the composition where the catalyst, which can be a manganese compound, and the enzyme(s) are mixed together to form catalyst/enzyme particles (col 30 Example 5) it is inherent that the manganese compound will be associated with or surrounded by the enzyme (instant protein).

Regarding claim 10, while Haeggberg et al. does not specifically teach the enzyme to be in the form of a random coil, as the enzyme disclosed by Haeggberg et al. is the instant protein cluster, protein or protein fragment it is inherent that the enzyme of Haeggberg et al. would have this property, absent evidence to the contrary.

Regarding claim 11, as the claimed limitations of instant claims 11 has been interpreted to be directed to the unselected 'a manganese compound', the limitations are deemed met by Haeggberg et al.

Regarding claim 13, as the claimed limitation of instant claim 13 is directed to the unselected cleaning composition in the form of a tablet, the limitations are deemed met by Haeggberg et al.

Regarding claim 14, Haeggberg et al. further teaches coating measures to protect ingredients from each other, from air and from moisture since the compositions contain water-sensitive ingredients or ingredients which can co-react when brought together and also teaches coating ingredients with nonionic surfactants for protection (col 27 ln 5-24) (instant no direct contact). Haeggberg et al. also teaches forming enzyme and catalyst particles that are included in the granular composition where the granular composition includes the bleaching agent (col 30, Examples 4-5).

Claims 2-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Haeggberg et al. (US 5,968,881).

Regarding claims 2 and 5, Haeggberg et al. teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds (abstract) in the form granules (col 1 ln 17-18) (instant a manganese).

Regarding claims 3-4, as the claimed limitations of instant claims 3-4 are directed to the unselected 'a manganese compound', the limitations are deemed met by Haeggberg et al.

Also and in the alternative, while Haeggberg et al. does not specifically teach the enzyme to be in the form of a random coil, as the enzyme disclosed by Haeggberg et al.

Art Unit: 1796

is the instant protein cluster, protein or protein fragment it is inherent that the enzyme of Haeggberg et al. would have this property, absent evidence to the contrary.

Regarding claim 6, as the claimed limitation of instant claim 6 is directed to the unselected cleaning composition in the form of a tablet, the limitations are deemed met by Haeggberg et al.

Regarding claim 7, Haeggberg et al. further teaches coating measures to protect ingredients from each other, from air and from moisture since the compositions contain water-sensitive ingredients or ingredients which can co-react when brought together and also teaches coating ingredients with nonionic surfactants for protection (col 27 ln 5-24) (instant no direct contact). Haeggberg et al. also teaches forming enzyme and catalyst particles that are included in the granular composition where the granular composition includes the bleaching agent (col 30, Examples 4-5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

Art Unit: 1796

were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Oakes (US 4,539,132).

Oakes teaches the bleaching and cleaning compositions set forth in **claim 5** above and further teaches the compositions comprising a peroxide bleach (abstract) (instant bleaching agent) and the compositions are in powdered or granular form (col 5 ln 51-56).

Oakes does not specifically teach the granular composition wherein the manganese compound and the bleaching agent have no direct contact. Haeggberg et al. teaches detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds (abstract) in the form of granules (col 1 ln 17-18). Haeggberg et al. teaches coating measures to protect ingredients from each other, from air and from moisture since the compositions contain water-sensitive ingredients or ingredients which can co-react when brought together and further teaches coating ingredients with nonionic surfactants for protection (col 27 ln 5-24) (instant no direct contact). Haeggberg et al. also teaches forming enzyme and catalyst particles that are included in the granular composition where the granular composition includes the

Art Unit: 1796

bleaching agent (col 30, Examples 4-5). Haeggberg et al. and Oakes are analogous art because they are concerned with the same field of endeavor, namely granular detergent compounds comprising enzymes, manganese compounds and bleaching agents. At the time of the invention a person having ordinary skill in the art would have found it obvious to protect sensitive ingredients from each other as taught by Haeggberg et al. in the compositions of Oakes and would have been motivated to do so in order to protect ingredients from each other (Haeggberg col 27 ln 5-24) and for reasons of stability (Haeggberg col 30 ln 25-29).

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haeggberg et al. (US 5,968,881) in view of Hardacker et al. (WO 03/104367, see Derwent abstract for English language equivalent).

Haeggberg et al. teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds (abstract) in the form granules (col 1 ln 17-18) (instant a manganese). Haeggberg et al. further teaches methods for cleaning soiled tableware comprising contacting said tableware with the composition and a method of washing tableware in a domestic automatic dishwashing appliance (col 27 ln 39-52). Haeggberg et al. teaches adding catalyst/enzyme particles to the detergent (col 30 Examples 4-5). Haeggberg et al. further teaches the compositions deliver superior tea cleaning results and at the same time excellent care for consumer table ware and flatware (col 3 ln 25-27) and teaches using the compositions to clean dishware, glassware, cooking/eating utensils and the

Art Unit: 1796

like (col 31 ln 60-61) wherein the compositions are not damaging to silverware, aluminum cookware or certain plastics (col 1 ln 55-56) (instant silver surface).

Haeggberg et al. does not specifically teach the instant manganese proteinate. However, Hardacker et al. teaches washing glasses in an automatic dishwasher (derwent abstract) with an automatic dishwasher rinse aid comprising surfactants and an added glass corrosion inhibitor which is a metal salt of a monomeric and/or polymeric organic acids such as amino-acids, wherein the metal salt can include manganese (derwent abstracts). Hardacker et al. and Haeggberg et al. are analogous art because they are concerned with the same field of endeavor, namely methods of automatic dishwashing comprising manganese-containing compounds. At the time of the invention a person having ordinary skill in the art would have found it obvious to include the metal salts of organic acids of Hardacker et al. in the compositions of the method of Haeggberg et al. and would have been motivated to do so to include compounds to prevent glass corrosion (Hardacker et al. Derwent abstract).

While Hardacker et al. does not specifically teach the metal salts of organic acids as providing silver corrosion protection, as the compounds disclosed by Hardacker are the instant manganese proteinate, it is implicit that the compounds of Hardacker et al. would have this property.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haeggberg et al. (US 5,968,881) in view of Hardacker et al. (WO 03/104367, see Derwent abstract for English language equivalent).

Art Unit: 1796

Haeggberg et al. teaches automatic dishwashing detergent compositions comprising bleaching agents, enzymes and manganese or cobalt catalyst compounds (abstract) in the form granules (col 1 ln 17-18) (instant a manganese). Haeggberg et al. further teaches methods for cleaning soiled tableware comprising contacting said tableware with the composition and a method of washing tableware in a domestic automatic dishwashing appliance (col 27 ln 39-52). Haeggberg et al. further teaches the compositions deliver superior tea cleaning results and at the same time excellent care for consumer table ware and flatware (col 3 ln 25-27) and teaches using the compositions to clean dishware, glassware, cooking/eating utensils and the like (col 31 ln 60-61).

Haeggberg et al. does not specifically teach the instant manganese proteinate. However, Hardacker et al. teaches washing glasses in an automatic dishwasher (derwent abstract) with an automatic dishwasher rinse aid comprising surfactants and an added glass corrosion inhibitor which is a metal salt of a monomeric and/or polymeric organic acids such as amino-acids, wherein the metal salt can include manganese (derwent abstracts). Hardacker et al. and Haeggberg et al. are analogous art because they are concerned with the same field of endeavor, namely methods of automatic dishwashing comprising manganese-containing compounds. At the time of the invention a person having ordinary skill in the art would have found it obvious to include the metal salts of organic acids of Hardacker et al. in the compositions of the method of Haeggberg et al. and would have been motivated to do so to include compounds to prevent glass corrosion (Hardacker et al. Derwent abstract).

Art Unit: 1796

As Haeggberg et al. teaches that manganese-ligand compounds are known to improve bleach performance in automatic dishwashing compositions (col 7 ln 60-62), it is therefore implicit that addition of the metal salts of organic acids including manganese metal and amino acids as taught by Hardacker et al. would also increase bleaching performance.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JANE L. STANLEY whose telephone number is (571)270-3870. The examiner can normally be reached on Monday-Thursday, 7:30 am - 5 pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Eashoo can be reached on (571) 272-1197. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mark Eashoo/
Supervisory Patent Examiner, Art Unit 1796

/JLS/